

AG Contract No. KR 02-2133TRN
ADOT ECS File No. JPA 02-136
Project No.: TEA-WIN-0(6)A
TRACS No.: SL492 01C
Project: Route 66 Pedestrian &
Landscape Improvements
Budget Source Item No: 75603

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF WINSLOW

THIS AGREEMENT is entered into April 26, 2004 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and CITY OF WINSLOW acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.
3. Congress has authorized appropriations for improvements, but not limited to, twelve eligible categories of transportation enhancement activities.
4. Such project within the boundary of the City has been selected by the City; the field survey of the Project has been completed; and the plans, estimates and specifications have been prepared and as required, submitted to the Federal Highway Administration (FHWA) and the State for its approval.
5. The States interest in the Project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the Project are authorized to be expended.
6. The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City and FHWA, including actual construction engineering and administration costs (CE).

NO. 26792
Filed with the Secretary of State
Date Filed: 04/26/04
Janice K. Brewer
Secretary of State

By: Timothy Samuel L

7. The work embraced in this agreement is the construction of a multi use path, landscaping, irrigation, lighting and signage paralleling Route 66 between the railroad and First Street located in Winslow Arizona.

Estimated Federal-aid funds @ 94.3%	\$ 500,000.00
Estimated City Funds @ 5.7%	\$ 28,500.00
Estimated City Funds @ 100%	<u>\$ 486,062.00</u>
Total Estimated Cost of the Project	\$1,014,562.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such Project is approved for construction by FHWA and the funds are available for construction, the City hereby agrees to be the authorized agent for the Project, and with the aid and consent of the State and the FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of the State and the FHWA, enter into a contract with a firm on behalf of the City to whom the award is made for the construction of the project; such project to be performed, completed, accepted and paid for in accordance with the instructions and requirements of the City. The State will enter into a Project Agreement with FHWA on behalf of the City covering the work embraced in said construction contract and will request the authorized federal funds available, including construction engineering and administration costs.

2. Prior to the solicitation of bids, the City shall have funds available in the amount determined to be necessary to match federal funds in the ratio required.

a. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any unforeseen conditions or circumstances increased of said costs required by a change in the extent or scope of the work called for in this agreement, the City shall be obligated to incur and will pay for said increased costs.

b. The City shall acquire the necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired prior to advertisement for bid.

c. The City shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of the right-of-way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

d. Upon completion of construction, the City shall provide for, at its own costs and as an annual item in its budget, proper maintenance, including, but not limited to:

e. Arrange to have furnished and installed in its name, all necessary water services from water mains to the designated locations within the rights-of-way.

f. Furnish all water for landscape installation during the construction phase, and all water thereafter necessary to properly maintain the landscape, all at the City's expense.

g. At the conclusion of the contractor maintenance and warranty period, referred to in the construction contract as Landscaping Establishment, maintain the landscaping, including all testing,

adjusting, repairing and operation of the irrigation system, and shall furnish all electrical power necessary to operate the irrigation system.

h. Maintenance shall consist of the care of all landscaping in accordance with accepted horticultural practices. This includes keeping all areas free of weeds, undesirable grasses and litter. Applying irrigation water, furnishing and applying insecticide/herbicide sprays, dust to combat diseases and other pests. Pruning and replanting as required to maintain the landscaping as it was designed, and established at the completion of the Project.

i. Not make any changes, additions or deletions without written approval of the State. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual".

j. Allow free public access to the Project improvements during normal business hours.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA and City, each in the proportion prescribed or as fixed and determined by the FHWA as stipulated in this agreement. Therefore, City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual, unless assumed by another entity.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

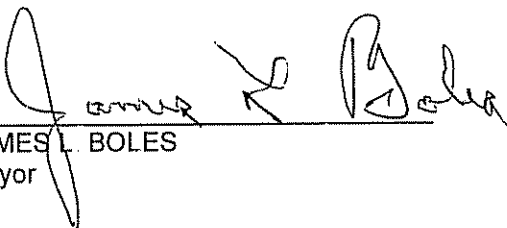
8 All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007
FAX (602)-712-7424

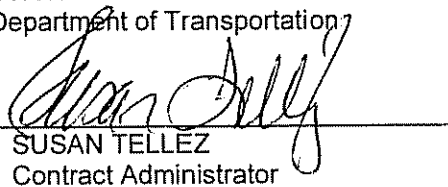
City Manager
City of Winslow
21 Williamson Avenue
Winslow, AZ 86047
FAX (928) 289-3742

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF WINSLOW

By 
JAMES L. BOLES
Mayor

STATE OF ARIZONA

Department of Transportation
By 
SUSAN TELLEZ
Contract Administrator

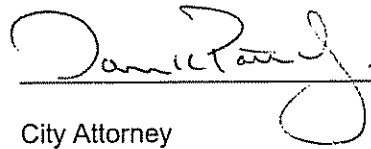
ATTEST:

By 
LINDA SAMSON
City Clerk

APPROVAL OF THE CITY OF WINSLOW

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, and CITY OF WINSLOW and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 13th day of April, 2004.



City Attorney

RESOLUTION NO. 1278

A RESOLUTION OF THE COUNCIL OF THE CITY OF WINSLOW, ARIZONA, APPROVING THE INTER-GOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE CITY OF WINSLOW REGARDING ROUTE 66 PEDESTRIAN AND LANDSCAPE IMPROVEMENTS, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WINSLOW, ARIZONA, that the City is authorized to enter into AG Contract No. KR 02-2133TRN, an inter-governmental agreement between the State of Arizona and the City of Winslow on the project known as "Route 66 Pedestrian & Landscape Improvements," a copy of which is attached hereto and made a part hereof by reference.

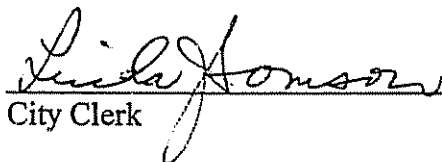
BE IT FURTHER RESOLVED that the Mayor is authorized to sign said Agreement on behalf of the City of Winslow.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF WINSLOW, ARIZONA, this 14th day of April, 2004.



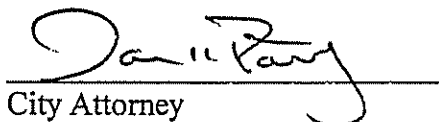
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855

TERRY GODDARD
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-2133TRN (**JPA 02-136**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: April 21, 2004.

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", written over a horizontal line.

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED/mjf
Attachment
840472